

FIRST DAY - JANUARY 5, 2005

LEGISLATIVE JOURNAL

**NINETY-NINTH LEGISLATURE
FIRST SESSION**

FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, January 5, 2005

PRAYER

The prayer was offered by Senator Kruse.

PRESENTATION OF COLORS

Presentation of Colors by the Nebraska Army National Guard and the Nebraska Air National Guard.

ROLL CALL

Pursuant to the provisions of Article III, Section 10 of the Constitution of Nebraska, the Ninety-Ninth Legislature, First Session of the Legislature of Nebraska, assembled in the George W. Norris Legislative Chamber of the State Capitol at the hour of 10:00 a.m., on Wednesday, January 5, 2005, and was called to order by Senator Chambers.

The roll was called and the following members were present:

Aguilar, Raymond	Flood, Mike	Pahls, Rich
Baker, Thomas C.	Foley, Mike	Pedersen, Dwite
Beutler, Chris	Friend, Mike	Pederson, Don
Bourne, Patrick J.	Heidemann, Lavon L.	Preister, Don
Brashear, Kermit	Howard, Gwen	Price, Marian L.
Brown, Pam	Hudkins, Carol	Raikes, Ronald E.
Burling, Carroll	Janssen, Ray	Redfield, Pam
Byars, Dennis M.	Jensen, Jim	Schimek, DiAnna R.
Chambers, Ernie	Johnson, Joel T.	Schrock, Ed
Combs, Jeanne M.	Kopplin, Gail F.	Smith, Adrian
Connealy, Matt	Kremer, Bob	Stuhr, Elaine
Cornett, Abbie	Kruse, Lowen	Stuthman, Arnie
Cudaback, Jim D.	Landis, David M.	Synowiecki, John F.
Cunningham, Douglas D.	Langemeier, Chris	Thompson, Nancy
Engel, L. Patrick	Louden, LeRoy J.	Wehrbein, Roger R.
Erdman, Philip	McDonald, Vickie D.	
Fischer, Deb	Mines, Mick	

MOTION - Temporary Clerk and Sergeant at Arms

Senator Cudaback moved to appoint Mr. Patrick J. O'Donnell as temporary Clerk of the Legislature and Mr. Ron Witkowski as temporary Sergeant at Arms.

The motion prevailed.

RESIGNATION

December 30, 2004

The Honorable Mike Johanns
Governor of Nebraska
P.O. Box 94848
Lincoln, NE 68509-4848

Dear Governor Johanns,

This letter is my formal notice that I resign the office of state senator effective at noon on January 3, 2005.

The Clerk of the Legislature brought to my attention the possible constitutional conflict presented by my being sworn in as a member of the Douglas County Board of Commissioners on January 4, 2005, while still holding office in the Nebraska Legislature. It is tempting to go out with a controversial flair, but I'll resist temptation and choose the more prudent course.

My understanding is that any possible problem will be alleviated by my resignation on the day preceding my swearing in as a Douglas County Commissioner.

Sincerely,
(Signed) Chip Maxwell
State Senator
District #9

MESSAGE FROM THE GOVERNOR

December 30, 2004

Senator Chip Maxwell
State Capitol, Room 1118
Lincoln, Nebraska 68509

Dear Senator Maxwell:

Your letter of resignation from the office of State Senator effective January 3, 2005 has been received by my office. I accept your resignation.

Thank you for your service to the citizens of the State of Nebraska and best wishes in your new position as a member of the Douglas County Board of Commissioners.

Sincerely,
(Signed) Mike Johanns
Governor

cjc

MOTION - Committee on Credentials

Senator Mines moved that we proceed to the election of five persons to serve as the Committee on Credentials, who will forthwith report to the Legislature on the credentials of those claiming to be elected to the Legislature in the General Election in November 2004.

The motion prevailed.

Senator Byars moved to elect the following five members of the Legislature to serve on the Committee on Credentials: Senators Landis, Beutler, Wehrbein, Schimek, and Cudaback.

The motion prevailed.

REPORT OF COMMITTEE ON CREDENTIALS

State of Nebraska

United States of America,)

) ss.

Department of State

State of Nebraska)

I, John A. Gale, Secretary of State of the State of Nebraska do hereby certify that the attached is a true and correct copy of the Official Roster of members of the Nebraska Unicameral Legislature elected or appointed to serve in the Ninety-Ninth Legislature, First Session, 2005.

Further, I hereby certify that the members so listed on the Official Roster attached hereto are the duly elected or appointed members of the Unicameral Legislature in the State of Nebraska for the Ninety-Ninth Legislature, First Session, 2005.

Finally, I hereby certify that all election returns, abstracts, canvass and appointment records with reference to said members are on file in the office of the Secretary of State and are a matter of public record.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this Fifth day of January in the year of our Lord, two thousand and five.

(SEAL)

John A. Gale, Secretary of State

DISTRICT/NAME	ELECTED
1 Lavon L. Heidemann	November 2, 2004
2 Roger R. Wehrbein	November 5, 2002
3 Gail F. Kopplin	November 2, 2004
4 Kermit Brashear	November 5, 2002
5 Don Preister	November 2, 2004
6 Pam Brown	November 5, 2002
7 John F. Synowiecki	November 2, 2004
8 Patrick J. Bourne	November 5, 2002
9 Gwen Howard	November 2, 2004
10 Mike Friend	November 5, 2002
11 Ernie Chambers	November 2, 2004
12 Pam Redfield	November 5, 2002
13 Lowen Kruse	November 2, 2004
14 Nancy Thompson	November 5, 2002
15 Ray Janssen	November 2, 2004
16 Matt Connealy	November 5, 2002
17 L. Patrick Engel	November 2, 2004
18 Mick Mines	November 5, 2002
19 Mike Flood	November 2, 2004
20 Jim Jensen	November 5, 2002
21 Carol Hudkins	November 2, 2004
22 Arnie Stuthman	November 5, 2002
23 Chris Langemeier	November 2, 2004
24 Elaine Stuhr	November 5, 2002
25 Ronald E. Raikes	November 2, 2004
26 Marian L. Price	November 5, 2002
27 DiAnna R. Schimek	November 2, 2004
28 Chris Beutler	November 5, 2002
29 Mike Foley	November 2, 2004
30 Dennis M. Byars	November 5, 2002
31 Rich Pahls	November 2, 2004
32 Jeanne M. Combs	November 5, 2002
33 Carroll Burling	November 2, 2004
34 Bob Kremer	November 5, 2002
35 Raymond Aguilar	November 2, 2004
36 Jim D. Cudaback	November 5, 2002
37 Joel T. Johnson	November 2, 2004
38 Ed Schrock	November 5, 2002
39 Dwite Pedersen	November 2, 2004
40 Douglas D. Cunningham	November 5, 2002
41 Vickie D. McDonald	November 2, 2004
42 Don Pederson	November 5, 2002
43 Deb Fischer	November 2, 2004

44	Thomas C. Baker	November 5, 2002
45	Abbie Cornett	November 2, 2004
46	David M. Landis	November 5, 2002
47	Philip Erdman	November 2, 2004
48	Adrian Smith	November 5, 2002
49	LeRoy J. Loudon	November 2, 2004

MOTION - Credentials Committee Report

Senator Schimek moved to approve the Committee on Credentials Report as certified and presented by the Secretary of State.

The motion prevailed.

MOTION - Escort Chief Justice

Senator Janssen moved that a committee of six be appointed to escort the Chief Justice of the Supreme Court to the Legislative Chamber for the purpose of administering the oath of office to the members of the Legislature.

The motion prevailed.

The Chair appointed Senators Brown, Cornett, Fischer, Howard, Redfield, and Schimek to serve on said committee.

MEMBERS' OATH OF OFFICE

STATE OF NEBRASKA)
) ss.
LANCASTER COUNTY)

Do you and each of you solemnly swear (or affirm) that you will support the constitution of the United States, and the constitution of the State of Nebraska, and will faithfully discharge the duties of the office of State Senator according to the best of your ability?

Aguilar, Raymond	Heidemann, Lavon L.	McDonald, Vickie D.
Burling, Carroll	Howard, Gwen	Pahls, Rich
Chambers, Ernie	Hudkins, Carol	Pedersen, Dwite
Cornett, Abbie	Janssen, Ray	Preister, Don
Engel, L. Patrick	Johnson, Joel T.	Raikes, Ronald E.
Erdman, Philip	Kopplin, Gail F.	Schimek, DiAnna R.
Fischer, Deb	Kruse, Lowen	Synowiecki, John F.
Flood, Mike	Langemeier, Chris	
Foley, Mike	Louden, LeRoy J.	

The committee escorted the Chief Justice from the Chamber.

MOTION - Adopt Temporary Rules

Senator Hudkins moved that the rules, as now in our possession, be adopted for today only, Wednesday, January 5, 2005.

The motion prevailed.

MOTION - Election of Officers

Senator Engel moved that the following officers be elected to serve for the Ninety-Ninth Legislature:

Clerk of the Legislature
 Assistant Clerk of the Legislature
 Sergeant at Arms

Patrick J. O'Donnell
 Richard K. Brown
 Ron Witkowski

The motion prevailed.

MOTION - Election of Speaker

Senator D. Pederson moved to proceed to the election of the Speaker of the Legislature.

The motion prevailed.

Senator Brashear placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Brashear.

The motion prevailed.

Senator Brashear was duly elected Speaker of the Legislature.

MOTION - Escort Chief Justice

Senator Dw. Pedersen moved that a committee of six be appointed to escort the Chief Justice of the Supreme Court to the Legislative Chamber for the purpose of administering the oath of office to the officers of the Legislature.

The motion prevailed.

The Chair appointed Senators Combs, Hudkins, McDonald, Price, Stuhr, and Thompson to serve on said committee.

OFFICERS' OATH OF OFFICE

STATE OF NEBRASKA)
) ss.

LANCASTER COUNTY)

We, and each of us, do solemnly swear (or affirm) that we will support the constitution of the United States, the constitution of the State of Nebraska, and will faithfully discharge the duties of our respective offices to the best of our ability.

Speaker
Clerk of the Legislature
Assistant Clerk of the Legislature
Sergeant at Arms

Kermit Brashear
Patrick J. O'Donnell
Richard K. Brown
Ron Witkowski

The committee escorted the Chief Justice from the Chamber.

SPEAKER BRASHEAR PRESIDING

MOTION - Chairperson of Committee on Committees

Senator Loudon moved to proceed to the election of the Chairperson of the Committee on Committees.

The motion prevailed.

Senator Dw. Pedersen placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Dw. Pedersen.

The motion prevailed.

Senator Dw. Pedersen was duly elected Chairperson of the Committee on Committees.

MOTION - Committee on Committees Members

Senator Dw. Pedersen moved to proceed to the election of the remaining twelve members of the Committee on Committees, and that we authorize the members residing within each of the three districts, as enumerated in Rule 3, Sec. 2, to nominate four members to be elected by the legislative body to serve on the Committee on Committees.

The motion prevailed.

Senators Kremer, Landis, Price, and Schimek were nominated from District 1.

Senators Bourne, Brashear, Jensen, and Preister were nominated from District 2.

Senators Cudaback, Engel, D. Pederson, and Schrock were nominated from District 3.

Senator Aguilar moved the approval of the nominees to the Committee on Committees.

The motion prevailed.

The Chair declared the nominees duly elected.

MOTION - Chairperson of Executive Board

Senator Bourne moved to proceed to the election of the Chairperson of the Executive Board of the Legislative Council.

The motion prevailed.

Senator Engel placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Engel.

The motion prevailed.

Senator Engel was duly elected Chairperson of the Executive Board.

MOTION - Vice Chairperson of Executive Board

Senator Synowiecki moved to proceed to the election of the Vice Chairperson of the Executive Board of the Legislative Council.

The motion prevailed.

Senator Cudaback placed his name in nomination.

Senator Johnson moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Cudaback.

The motion prevailed.

Senator Cudaback was duly elected Vice Chairperson of the Executive Board.

MOTION - Executive Board Members

Senator Connealy moved to proceed to the election of the other six members of the Executive Board of the Legislative Council as outlined in 50-401.01.

The motion prevailed.

Senators Beutler and Stuthman were nominated from District 1.

Senators Chambers and Thompson were nominated from District 2.

Senators Erdman and McDonald were nominated from District 3.

Senator Stuthman moved the approval of the nominees to the Executive Board of the Legislative Council.

The motion prevailed.

The Chair declared the nominees duly elected.

MOTION - Standing Committee Chairpersons

Senator McDonald moved to proceed to the election of the standing committee chairpersons, by secret ballot, in accordance with Rule 3, Sec. 7(a).

The motion prevailed.

CHAIRPERSON - Agriculture

Senator Kremer placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Kremer.

The motion prevailed.

Senator Kremer was duly elected Chairperson of the Agriculture Committee.

CHAIRPERSON - Appropriations

Senator D. Pederson placed his name in nomination.

Senator Wehrbein placed his name in nomination.

The Chair declared the nominations closed.

The Chair appointed Senators Cornett, Flood, and Langemeier as tellers.

Senator D. Pederson 27

Senator Wehrbein 22

49

Senator D. Pederson was duly elected Chairperson of the Appropriations

Committee.

CHAIRPERSON - Banking, Commerce and Insurance

Senator Louden placed his name in nomination.

Senator Mines placed his name in nomination.

The Chair declared the nominations closed.

The Chair appointed Senators Heidemann, Howard, and Pahls as tellers.

Senator Louden	15
Senator Mines	<u>34</u>
	49

Senator Mines was duly elected Chairperson of the Banking, Commerce and Insurance Committee.

CHAIRPERSON - Business and Labor

Senator Cunningham placed his name in nomination.

Senator Combs placed her name in nomination.

The Chair declared the nominations closed.

The Chair appointed Senators Fischer, Kopplin, and Synowiecki as tellers.

Senator Cunningham	26
Senator Combs	<u>22</u>
	48

Senator Cunningham was duly elected Chairperson of the Business and Labor Committee.

CHAIRPERSON - Education

Senator Raikes placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Raikes.

The motion prevailed.

Senator Raikes was duly elected Chairperson of the Education Committee.

CHAIRPERSON - General Affairs

Senator Janssen placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Janssen.

The motion prevailed.

Senator Janssen was duly elected Chairperson of the General Affairs Committee.

CHAIRPERSON - Government, Military and Veterans Affairs

Senator Schimek placed her name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Schimek.

The motion prevailed.

Senator Schimek was duly elected Chairperson of the Government, Military and Veterans Affairs Committee.

CHAIRPERSON - Health and Human Services

Senator Jensen placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Jensen.

The motion prevailed.

Senator Jensen was duly elected Chairperson of the Health and Human Services Committee.

CHAIRPERSON - Judiciary

Senator Bourne placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Bourne.

The motion prevailed.

Senator Bourne was duly elected Chairperson of the Judiciary Committee.

CHAIRPERSON - Natural Resources

Senator Schrock placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Schrock.

The motion prevailed.

Senator Schrock was duly elected Chairperson of the Natural Resources Committee.

CHAIRPERSON - Nebraska Retirement Systems

Senator Stuhr placed her name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Stuhr.

The motion prevailed.

Senator Stuhr was duly elected Chairperson of the Nebraska Retirement Systems Committee.

CHAIRPERSON - Revenue

Senator Landis placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Landis.

The motion prevailed.

Senator Landis was duly elected Chairperson of the Revenue Committee.

CHAIRPERSON - Transportation and Telecommunications

Senator Baker placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Baker.

The motion prevailed.

Senator Baker was duly elected Chairperson of the Transportation and Telecommunications Committee.

CHAIRPERSON - Urban Affairs

Senator Friend placed his name in nomination.

Senator Smith moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Friend.

The motion prevailed.

Senator Friend was duly elected Chairperson of the Urban Affairs Committee.

MOTION - Special and Select Committee Chairpersons

Senator Price moved to proceed to the election of the special and select committee chairpersons, by secret ballot.

The motion prevailed.

CHAIRPERSON - Intergovernmental Cooperation

Senator Aguilar placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Aguilar.

The motion prevailed.

Senator Aguilar was duly elected Chairperson of the Intergovernmental Cooperation Committee.

CHAIRPERSON - Rules

Senator Hudkins placed her name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Hudkins.

The motion prevailed.

Senator Hudkins was duly elected Chairperson of the Rules Committee.

CHAIRPERSON – Enrollment and Review

Senator Erdman nominated Senator Flood.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Flood.

The motion prevailed.

Senator Flood was duly elected Chairperson of the Enrollment and Review Committee.

MOTION - Election Returns

Senator Redfield moved that a committee of three be appointed to escort the Secretary of State to the Chamber to deliver the election returns of the General Election of November 2004.

The motion prevailed.

The Chair appointed Senators Combs, Loudon, and Wehrbein to serve on said committee.

The committee escorted Secretary of State, John A. Gale, to the rostrum where he delivered the following report.

REPORT FROM THE SECRETARY OF STATE

January 5, 2005

Speaker of the Legislature
Ninety-Ninth Legislature, First Session (Regular) 2005
State Capitol
Lincoln, Nebraska

Honorable Speaker:

In accordance with Article IV, Section 4 of the Constitution of the State of Nebraska, I have the honor of herewith delivering to you, under Seal, the abstract of votes cast in the ninety-three counties of the State of Nebraska at the General Election held on November 2, 2004 for the offices of Members of the Public Service Commission, Regents of the University of Nebraska, Members of the State Board of Education, Supreme Court Judges, Court of Appeals Judges and Nebraska Workers Compensation Judges which votes are required by law to be canvassed by the Nebraska State Legislature, pursuant to Section 32-1039 R.S. Nebraska 1943, Reissue of 1998 as submitted to me for delivery to the Honorable Speaker of the Legislature.

I also deliver to you, under Seal, the list of candidates receiving the highest vote for each particular office enumerated. The certificate of the Secretary of State accompanies this list.

The original abstract sheets containing the tabulation of votes from the ninety-three counties with reference to four Constitutional Amendments are on file in this office. A certification of these returns is also attached.

Inasmuch as these canvass sheets are part of the records of the Office of Secretary of State, we respectfully request that they be returned to our office files immediately upon the completion of your official canvass.

Respectfully submitted,

United States of America,)

) ss.	Department of State
State of Nebraska)	

I, John A. Gale, Secretary of State of the State of Nebraska do hereby certify that the attached is a true and correct listing of Constitutional Amendments proposed by the Legislature showing the number of votes cast for and against each at the General Election held on November 2, 2004.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this Fifth day of January in the year of our Lord, two thousand and five.

(SEAL) John A. Gale, Secretary of State

General Election
November 2, 2004

No. 1

A constitutional amendment to authorize exemption of certain improvements to historically significant real property from property taxation.

For	406,230
Against	288,544

No. 2

A constitutional amendment to remove the Lieutenant Governor and designate the Speaker as presiding officer of the Legislature.

For	262,040
Against	408,515

No. 3

A constitutional amendment to define casino gaming and to permit the Legislature to authorize up to two casino locations subject to approval by voters in the affected counties and provide for the authorization, operation, regulation, and taxation of casino gaming.

For	267,655
Against	482,301

No. 4

A constitutional amendment to require the proceeds of the lottery operated

and regulated by the State of Nebraska to be appropriated by the Legislature for the costs of the lottery, the Nebraska Environmental Trust Fund, education, the Nebraska State Fair Board, and the Compulsive Gamblers Assistance Fund, subject to certain conditions.

For	403,073
Against	321,410

No. 417

Shall the Nebraska Constitution be amended to provide that the people may enact laws by initiative measure to provide for the authorization, operation, regulation, and taxation of all forms of games of chance?

For	363,478
Against	380,424

No. 418

Shall the Nebraska Constitution be amended to provide that the Legislature shall not amend, repeal, modify, or impair a law enacted by the people by initiative, except upon a vote of at least two-thirds of all the members of the Legislature?

For	402,709
Against	331,908

SENATOR CUDABACK PRESIDING

Senator Kremer moved to approve the report of the Secretary of State and the candidates stated therein be declared duly elected.

The motion prevailed.

The Secretary of State was escorted from the Chamber.

MOTION - Inaugural Ceremonies

Senator Baker moved to arrange to hold the inaugural ceremonies for the newly elected state officials on Thursday, January 6, 2005, at 1:45 p.m.

The motion prevailed.

ANNOUNCEMENT

Senator Dw. Pedersen announced the Committee on Committees will meet today, January 5, 2005, at 2:30 p.m., in Room 1507.

ADJOURNMENT

At 12:43 p.m., on a motion by Senator Engel, the Legislature adjourned until 10:00 a.m., Thursday, January 6, 2005.

Patrick J. O'Donnell
Clerk of the Legislature